

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

ELISABETH BERNHARD,
Plaintiff,

No.: 21-509

v.

Removed Case No.:
D-101-CV-2021-00795

MEOW WOLF, INC., and
MEOW WOLF SANTA FE LLC,
Defendant.

**NOTICE OF REMOVAL OF STATE COURT ACTION
PURSUANT TO 28 U.S.C.S. §§ 1332 AND 1441 ON THE BASIS OF DIVERSITY**

Defendant, Meow Wolf, Inc. ("Meow Wolf") by and through its counsel, Lewis Brisbois Bisgaard & Smith, LLP (Greg L. Biehler and Matthew I. Barceleau) hereby removes this action from the First Judicial District Court, County of Santa Fe, New Mexico pursuant to 28 U.S.C.S §§ 1332 and 1441 on the basis of diversity. As grounds for the relief requested herein, Meow Wolf states as follows:

PROCEDURAL HISTORY

1. On April 12, 2021 Plaintiff Elisabeth Bernhard ("Plaintiff") filed a civil complaint against Meow Wolf in the First Judicial District Court for the State of New Mexico entitled *Complaint for Personal Injuries*, **D-101-CV-2021-00795**.

2. Plaintiff's Complaint generally alleges claims for negligence against Meow Wolf. *See Complaint, generally.*

3. This Court had jurisdiction pursuant to 28 U.S.C § 1332 and § 1441 since there is complete diversity of citizenship as to all parties and since Plaintiff affirmatively seeks more than \$75,000 based on information and belief.

GROUND FOR REMOVAL

4. A defendant may remove any civil action brought in a state court for which the District Courts of the United States have original jurisdiction to the federal district court encompassing the place in which the action is pending. 28 U.S.C.S § 1441(a). Pursuant to 28 U.S.C.S § 1332(a), this Court has original jurisdiction over this case by reason of diversity of citizenship and the amount in controversy, which exceeds \$75,000, exclusive of interests and costs.

COMPLETE DIVERSITY OF CITIZENSHIP IS PRESENT

5. As of the date of this Notice of Removal, there exists complete diversity of citizenship between Plaintiff and Defendants.

6. According to the Complaint, Plaintiff, Elisabeth Bernhard is a foreign citizen of the Kaisheim, Germany. See Complaint, ¶1.

7. Meow Wolf is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 1209 Orange Street, Wilmington, DE 19801.

8. Defendant Meow Wolf Santa Fe LLC is not/was never a legally registered or formed corporation, limited liability company, or other entity, and therefore is not a proper party to this lawsuit.

MEOW WOLF'S NOTICE OF REMOVAL IS TIMELY

9. "The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based..." (28 U.S.C.S § 1446(b)(1)), and – in cases where federal jurisdiction is based on the

diversity of the parties' citizenship – within one year of the initiation of the action (28 U.S.C.S. § 1446(c)(1)). On January 14, 2021 Meow Wolf was served with Plaintiff's Complaint.

10. Meow Wolf's removal is timely because it has filed this Notice of Removal within thirty (30) days of being served with Plaintiff's Complaint, the first pleading in this matter to name Meow Wolf as a defendant, and within one year of April 12, 2021, when this action was initiated.

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

11. The jurisdictional amount in controversy is satisfied because upon information and belief the Plaintiff has indicated she is seeking damages in excess of \$75,000, exclusive of interest and costs. See Complaint ¶¶ 11 and 15.

MEOW WOLF HAS COMPLIED WITH ALL REMOVAL PROCEDURES

12. Meow Wolf has complied with the procedural requirements for removal set forth in 28 U.S.C.S. § 1446. As noted above, in accordance with 28 U.S.C.S. § 1446(b)(1), the notice of removal was timely filed within thirty (30) days after Meow Wolf was served with Plaintiff's Complaint naming Meow Wolf as a defendant. See Complaint.

13. The United States District Court, District of New Mexico, encompasses the First Judicial District Court, Santa Fe County, New Mexico, the county in which the state court action is now pending, and this is the proper venue to which to remove this action pursuant to 28 U.S.C.S. § 1441(a).

14. Pursuant to 28 U.S.C. § 1446(d), promptly upon filing this Notice of Removal, Meow Wolf will provide written notice of this Notice of Removal to Plaintiff and file a copy

of this Notice with the clerk of the State Court of the First Judicial District Court, Santa Fe County, New Mexico.

15. The Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure as required by 28 U.S.C.S. § 1446(a).

16. Pursuant to D.N.M. LR-CIV 81-1(a), Meow Wolf will submit copies of the records and proceedings from the state court action within twenty-eight (28) days of the filing of this Notice of Removal.

WHEREFORE, Meow Wolf prays that the above-entitled action be removed from the State of New Mexico First Judicial District Court to this Court.

Respectfully submitted:

By: /s/ Matthew I. Barceleau

Matthew I. Barceleau

Greg L. Biehler

Lewis Brisbois Bisgaard & Smith, LLP

8801 Horizon Blvd. NE, Suite 300

Albuquerque, NM 87113

T: 505.545.3600

F: 505.828.3900

matthew.barceleau@lewisbrisbois.com

greg.biehler@lewisbrisbois.com

Attorney for Meow Wolf, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing *Notice of Removal* was filed via the CM/ECF filing system on this 2nd day of June, 2021 and a courtesy copy was provided to all counsel of record:

Lee Hunt
HUNT LAW FIRM
518 Old Santa Fe Trail, #501
Santa Fe, NM 87505
(505) 954-4868
(505) 819-0022(facsimile)
lee@huntlaw.com
Attorney for Plaintiff

/s/ Matthew I. Barceleau
Matthew I. Barceleau